



Town of Sunset Beach Planning Board Meeting

Meeting Minutes of November 17, 2016

Members Present: Chairperson Tom Vincenz, Greg Jensen, Noelle Kehrberg, Len Steiner, Bob Tone

Members Absent: None

Staff Present: Richard Hathcock, GIS Planner; Cindy Nelson, Planning Board Secretary

Others Present: Wes Macleod, Cape Fear Council of Government (COG); Peter Larkin, Town Council Member; John Corbett, Town Council Member

Chairperson Vincenz called the meeting to order at 9:00 a.m. and established that a quorum was present.

Amend or Approve Agenda: Agenda approved by Planning Board members in attendance.

The Pledge of Allegiance was recited by all in attendance.

Postponement or Withdrawal Requests: None

Public Comments: None

Consideration of Approval of Minutes: None

Old Business

a. TA-16-05: Amend Article 2, General Regulations in the UDO to Replace Previous Section of the Town Code Regarding Maintenance of Bulkheads, Docks and Piers. Discussion Item w/Attachment

The Town Attorney has not responded with information as of yet. Item will go on the next meeting agenda. No further discussion ensued.

b. TA-16-10: Amend Article 6, Zoning Districts to allow "Privacy Fences (subdivisions)" as a Permitted Use in BR-2 Zoning District. Advertised Action Item; Attached.

Discussion started with the Board highlighting their view on this matter:

- A gate will prevent motorized vehicles from entering the subdivision; however, it will not prevent the passage of bicyclists and pedestrians.
- A gate standing by itself without an attached fence would not look very sightly.
- Gate would block access to public trust waters.
- A fence would block access to public trust waters which is not consistent with the Land Use Plan which promotes water recreation access.

Len Steiner said that people would be trespassing. Chairperson Vincenz was not in favor of approving the text amendment as it restricts access to public trust waters.

CHAIRPERSON VINCENZ ASKED FOR A MOTION TO APPROVE THE TEXT AMENDMENT. LEN STEINER MOVED THE MOTION TO APPROVE THE ADDITION OF A PRIVACY FENCE PER SECTION 7.09, PER PLANNING BOARD SUMMARY ACTION ITEM A, WHICH WAS READ ALLOWED BY LEN STEINER.

NO SECOND WAS MADE.

CHAIRPERSON VINCENZ ASKED FOR A MOTION TO DISAPPROVE THE TEXT AMENDMENT AND READ SUMMARY ACTION ITEM B TO DISAPPROVE THE GATE. NOELLE KEHRBERG MOVED THE MOTION AS IT IS NOT IN PUBLIC'S BEST INTEREST. SECOND WAS MADE BY BOB TONE. MOTION WAS CARRIED BY ALL MEMBERS OF THE PLANNING BOARD EXCEPT FOR LEN STEINER WHO VOTED "NAY".

The text amendment will now go to Town Council for their approval or disapproval.

c. TA-15-13: Amend Article 2, General Regulation in the UDO to Provide Development Standards for the Use of Fill on Lots. Advertised Action Item; Attached.

Chairperson Vincenz acknowledged that this topic has been talked through and various changes have been considered and made to create a workable document. With that, the Board is ready to make a recommendation to Town Council.

CHAIRPERSON VINCENZ ASKED FOR A MOTION TO RECOMMEND TO COUNCIL PER ACTION ITEM A. MOTION WAS MOVED BY GREG JENSEN WITH A SECOND MADE BY LEN STEINER. MOTION CARRIED UNANIMOUSLY.

d. Use of Pine Straw Prohibited in Residential Districts. Discussion Item Only No Attachment.

Wes said that we were waiting on input from the Town Attorney to see if there would be any legal challenges in creating a standard. The biggest issue with this still would be enforcement. How could the Town prohibit a homeowner from using pine straw?

Wes said he will draft language for a text amendment if the Board wanted to proceed in that direction. Chairperson Vincenz was in favor of moving forward. Bob Tone said this will not alleviate the problem. Wes added that he will draft a public information document that can be circulated to the general population. Len and Noelle were in favor of circulating educational information that could be distributed to real estate companies, landscapers, and posted on Town social media. All the Board members were in agreement that efforts to educate the public would be a great way to proceed.

New Business - None

Administrative Items

A. Director and Staff Comments: Wes talked about the MB-1 Text Amendment that has been initiated by the Planning Board to help the developer move forward with a plan to redevelop Pelican Square. He further said that he spoke with the developer, Lat Pursor who stated that they would like to get started on the project by March. It could take a couple months for Planning Board and Town Council approvals. Lat would like to be present at one of the December meetings to present a more conceptual plan.

Wes continued: The UDO needs to be cleaned up to accommodate this text amendment; the language would need to be corrected regardless of this proposal. The text refers back and forth between zoning districts; for example, MB-1 refers to MR-1 for multi-family as a permitted use, however the text for MR-1 does not have any reference to multi-family.

Chairperson Vincenz asked Wes to create a couple different scenarios with a flow chart on how a development like this could work through the process. This will give an idea on whether or not to extend the MUD district across the street or revise the MB-1 district. This will let us know which one would be the better option to help the developer time wise.

Wes responded that he and Allen Serkin had a lengthy discussion on the best solution for the Town and the developer:

The MUD district could be extended across the street, but, there is an acreage threshold to consider and a new precinct district would have to be created while simultaneously rezoning the property. This may not be the best approach. The other option is to amend the existing standards for MB-1, which as stated earlier, needs cleaned up regardless. Another consideration is to use conditional zoning, which is not recommended. The Town has a standard for a PRD, but, this does not fall well into that standard. Wes will modify Text Amendment TA-16-16 with an action item list based on today's discussion and have it ready for consideration at the first meeting in December.

Wes said in closing that this is a priority for the Board's consideration. The next priority is

TA-16-15; to require the completion of infrastructure prior to final plat approval and that will also be on the next agenda.

Chairperson Vincenz asked if there was any word on the Land Use Plan approval from the CRC. Wes said he will follow up but has not had any response or comments yet.

The Secretary brought it to the Boards attention that the previously approved minutes from October 20, 2016 were approved with one correction. That correction needs to be reversed changing one word from "Sealed" to "Scaled".

CHAIRPERSON VINCENZ ASKED FOR A MOTION TO AMEND THE MINUTES.
MOTION CARRIED BY GREG JENSEN WITH A SECOND MADE BY NOELLE KEHRBERG. MOTION CARRIED UNANIMOUSLY.

B. Board Member Comments and Request for Future Agenda Items-None

Public Comment:

John Corbett-1313 Canal Drive: On your motion to deny fences, what is the difference between Palm Cove having a gate and a fence, but, Riverside Drive is not permitted to have a fence? It may be of importance to justify public access and public trust areas. The public will go out there and they will be trespassing from the developer's point of view.

Discussion ensued:

Wes answered that Palm Cove fence was permitted in about 2002 and fences were allowed at that time. The code has since changed. He continued that public trust is difficult as Riverside Drive is all private property. The Town did have a public ROW option when the subdivision was originally platted in the '70's. That was never accepted by the Town. In 2015 the property was replatted. Maybe the developers will grant an easement or a public ROW.

Len Steiner noted that this is private property and we are opening a can of worms. People will be traversing this area to fish and kayak; however, they are trespassing on private property to get to these public trust waters. So I do not support the Boards decision to not allow a fence.

John Corbett challenged, we could be setting ourselves up for contentious litigation or other problems. Len Steiner agreed.

Wes said that ultimately Town Council will vote for or against this. He said he will include a provision in his staff report that addresses this. He also agreed that this will open up the potential for problems.

Adjournment: 9:45 AM. CHAIRPERSON VINCENZ ASKED FOR A MOTION TO ADJOURN. MOTION MOVED BY GREG JENSEN. SECOND WAS MADE BY LEN STEINER. MOTION CARRIED UNANIMOUSLY.

Town of Sunset Beach
Planning Board

Tom Vincenz, Chair Person

Submitted by:

Cindy Nelson, Planning Board Secretary

***Minutes were not available at this meeting for approval.